FILE COPY

SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1933**

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## No. Original.

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THE STATE OF OHIO,

*Complainant,*

*vs.*

GUY T. HELVERING, as an Individual and as Commissioner of Internal Revenue, and THOMAS J. CONNOR, CARL E. MOORE, HARRY F. BUSEY, and CHARLES H. GRAVES, as Individuals and as United States Collectors of Internal Revenue in the State of Ohio.

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**MOTION FOR LEAVE TO FILE BILL OF COMPLAINT**

**and**

**BILL OF COMPLAINT.**

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The State of Ohio,
By John W. Bricker,
*Attorney General,*
William S. Evatt,
*Chief Counsel,*
Isadore Topper,
*Assistant Attorney General,*
*Counsel for Complainant.*

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1933

# No. Original.

THE STATE OF OHIO,

*Complainant,*

*vs.*

GUY T. HELVERING, AS AN INDIVIDUAL AND AS COMMISSIONER OF INTERNAL REVENUE, AND THOMAS J. CONNOR, CARL E. MOORE, HARRY F. BUSEY, AND CHARLES H. GRAVES, AS INDIVIDUALS AND AS UNITED STATES COLLECTORS OF INTERNAL REVENUE IN THE STATE OF OHIO,

*Defendants.*

## MOTION FOR LEAVE TO FILE BILL OF COMPLAINT.

Now comes the complainant, the State of Ohio, by its Attorney General John W. Bricker, and presents herewith its bill of complaint in the above entitled cause and respectfully moves this Court for leave to file the same in this Court under its original jurisdiction.

THE STATE OF OHIO,
By JOHN W. BRICKER,
*Attorney General,*
WILLIAM S. EVATT,
*Chief Counsel,*
ISADORE TOPPER,
*Assistant Attorney General,*
*Counsel for Complainant.*

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*Defendants.*

## NOTICE OF HEARING.

Please take notice that on the 2nd day of April, 1934, or as soon thereafter as counsel can be heard, the motion of complainant for leave to file its bill of complaint in the above entitled cause will be submitted to the Supreme Court of the United States.

THE STATE OF OHIO,
By JOHN W. BRICKER,
*Attorney General,*
WILLIAM S. EVATT,
*Chief Counsel,*
ISADORE TOPPER,
*Assistant Attorney General,*
*Attorneys for Complainant.*

**Proof of Service.**

We hereby acknowledge receipt of copy of motion for leave to file bill of complaint, bill of complaint, notice of hearing and brief, this — day of ——, 1934.

*Counsel for Defendants.*

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1932

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# No. Original.

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THE STATE OF OHIO,

*Complainant,*

*vs.*

GUY T. HELVERING, AS AN INDIVIDUAL AND AS COMMISSIONER OF INTERNAL REVENUE, AND THOMAS J. CONNOR, CARL E. MOORE, HARRY F. BUSEY, AND CHARLES H. GRAVES, AS INDIVIDUALS AND AS UNITED STATES COLLECTORS OF INTERNAL REVENUE IN THE STATE OF OHIO,

*Defendants.*

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## BRIEF ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT.

As cause for this motion, it is respectfully shown:

1. That this cause involves a controversy between the State of Ohio and a citizen of another state.

2. That the State of Ohio, as complainant, is the real party in interest.

3. That it is not a suit to enforce a penalty under the state law and the nature of the controversy does not call for a judgment on a political or governmental question.

4. That no service of process can be had within the State of Ohio upon defendant Guy T. Helvering.

5. That this cause is of a justiciable character, of a civil nature, is within the judicial power of the United States, is instituted to redress a wrong and save the State of Ohio from irreparable injury as a sovereign state, and to save its duly constituted state officers from irreparable injury resulting from certain threatened acts on the part of defendants which are in conflict with the rights of the State of Ohio under the Constitution of the United States.

6. That this is an action arising from extraordinary and exceptional circumstances in which the State of Ohio and its officers and employes would be without adequate relief except by invoking the original jurisdiction of this Court in equity as set forth in complainant's bill of complaint.

7. Equity jurisdiction rests upon the claim that the excise taxes imposed by the order of the Commission of Internal Revenue of the United States place a cloud upon the title to over four million dollars worth of merchandise owned by the State of Ohio, and that the penalties and remedies provided by the Statutes of the United States for the enforcement of the payment of the excise taxes complained of are such that the complainant will be irreparably injured in its property rights and in the exercise of its governmental and sovereign powers as a state, and that a multiplicity of suits is imminent unless equity intervenes, and that more than one hundred eighty-seven of its officers and employes will be subject to severe penalties in exercising and carrying out the sovereign powers of the state unless equity intervenes. (*Hill* vs. *Wallace*, 259 U. S. 44.)

WHEREFORE, complainant prays that this Honorable Court may exercise its original jurisdiction in this controversy as provided in Article III, Section 2, Clause 2 of the Constitution of the United States.

THE STATE OF OHIO,
By JOHN W. BRICKER,
*Attorney General,*
WILLIAM S. EVATT,
*Chief Counsel,*
ISAAC R TOPPER,
*Assistant Attorney General,*
*Attorneys for Complainant.*

# SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1933**

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THE STATE OF OHIO,

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GUY T. HELVERING, AS AN INDIVIDUAL AND AS COMMISSIONER OF INTERNAL REVENUE, AND THOMAS J. CONNOR, CARL E. MOORE, HARRY F. BUSEY, AND CHARLES H. GRAVES, AS INDIVIDUALS AND AS UNITED STATES COLLECTORS OF INTERNAL REVENUE IN THE STATE OF OHIO,

*Defendants.*

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## BILL OF COMPLAINT.

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*To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:*

The bill of complaint of the State of Ohio, one of the states of the United States of America, respectfully shows this Honorable Court that:

1. The State of Ohio is one of the states of the United States of America and this action is brought on its behalf pursuant to the written request made on the Attorney General of Ohio by the Department of Liquor Control of the State of Ohio, a duly constituted department of the state government, and John W. Bricker is the duly elected, qualified and acting Attorney General of the State of Ohio.

2. Complainant further shows that Guy T. Helvering is a citizen of the State of Kansas and is the duly appointed, qualified and acting Commissioner of Internal Revenue of the Department of the Treasury, Government of the United States, at Washington, District of Columbia, and that defendants, Thomas J. Connor, Carl E. Moore, Harry F. Busey and Charles H. Graves are residents of Ohio and are the duly appointed, qualified and acting Collectors of Internal Revenue in the four Internal Revenue Districts of the State of Ohio, which include the eighty-eight counties comprising the State of Ohio.

3. This action is brought in the Supreme Court of the United States in the exercise of the original jurisdiction of said Court on the ground that it is an action in equity relating to a controversy between a state and a citizen of another of the United States.

4. Complainant further says that on December 22, 1933, the 90th General Assembly of the State of Ohio, in special session, passed an act in the exercise of its police power for the protection of the public welfare, health, peace and morals and to prohibit a return of the saloon and the return of the private wholesaler and retailer of spirituous liquors, known as House Bill No. 1. Said act carries out such public policy, by providing a system of control for the manufacture, sale, and importation of and traffic in beer and intoxicating liquors in said state, including a state monopoly of the distribution and sale of spirituous liquor, to create the Department of Liquor Control consisting of a Board of Liquor Control and a Director of Liquor Control, and defining their respective powers and duties, and for the use of the general revenue fund of the state; such act was approved by the Governor of Ohio December 23, 1933 and filed in the office of the Secretary of State at Columbus, Ohio on the 23rd day of December, 1933 (see Appendix "A").

5. Complainant further says that in accordance with the provisions of said House Bill No. 1 of the 90th General Assembly, special session, complainant, through its Department of Liquor Control, has purchased intoxicating liquor at a cost in excess of four and a half million dollars for sale to permit holders and to the public through its state stores, each of which will be under the control of a state supervisor as a classified state civil service employe or officer of the government of Ohio in charge of a retail intoxicating liquor establishment, and each of which will be entirely and exclusively state owned, managed and controlled, and is about to open in the various counties of the state one hundred eighty-seven (187) such state liquor stores.

6. Complainant further says that on or about March 19, 1934, without authority of law and in violation of the constitutional rights of complainant as a sovereign state in the conduct of its governmental activities, defendant Harry F. Busey, Collector of Internal Revenue in and for the 11th District of Ohio, notified in writing the Department of Liquor Control of the State of Ohio that by direction of the Commissioner of Internal Revenue, the State of Ohio is subject to the Federal liquor dealers' special tax at each location where liquor is sold or offered for sale at retail by the Department of Liquor Control of the State of Ohio and that the State of Ohio was required to pay an additional tax as a wholesaler of intoxicating liquor.

7. Complainant further says that defendants have threatened to and unless enjoined by this Court will levy and collect the Federal excise taxes on complainant's governmental agencies and operations in the conduct of its Department of Liquor Control, and also will enforce against it, its officers, agents and employes certain penalites for non-payment of said taxes, purporting to act under Sec. 3244, Revised Statutes of the United States (26 U. S. C. A.,

Sec. 205), Sec. 3233, Revised Statutes (26 U. S. C. A., Sec. 182), The Act of October 1, 1890, Chapter 1244, Sec. 53 (26 U. S. C. A., Sec. 186), Sec. 3235, Revised Statutes (26 U. S. C. A., Sec. 184), Sec. 3281, Revised Statutes (26 U. S. C. A., Sec. 193), thus interfering with the sovereign independence of the State of Ohio.

8. Complainant further says that it is not subject to or liable to pay either the wholesale liquor dealers' license tax, or the retail liquor dealers' license tax, nor is complainant liable to register with or make returns to the defendants or any of them concerning any such taxes.

9. Complainant further says that the Acts of Congress which impose the several taxes hereinabove referred to, do not by their terms include complainant or its officers or employes within their scope and were not intended to do so.

10. In attempting to collect any of said taxes from or to enforce any of the acts or regulations concerning such taxes against the complainant or any of its officers, agents or employes, the defendants, and any persons acting under them would be acting illegally and unconstitutionally, and outside the scope of their official authority. Any such action would be the illegal and unconstitutional action of the defendants individually and would be without the authority of the United States, and would not be an action of the United States.

11. Complainant further says that the circumstances surrounding the threatened unlawful and unauthorized acts of defendants as aforesaid are extraordinary and exceptional in the following respects:

(a) Any attempt of a Federal officer to tax a sovereign state is in itself a case of extraordinary and exceptional circumstances.

(b) The threatened attempt to apply to the State of Ohio the pertinent Federal statutes as aforesaid, with respect to the taxation of wholesale and retail liquor dealers, without the payment of the sums so unlawfully demanded by defendants as taxes, would result in the forfeiture to the United States of intoxicating liquor, the absolute property of the State of Ohio, of a value of approximately four and a half million dollars; and said threat of defendants so to do throws a cloud upon the title of the sovereign state to its liquor.

(c) The aforesaid threatened acts of defendants, without the payment of the sums so unlawfully demanded by defendants as taxes, would subject at least one hundred eighty-seven (187) state supervisors of state liquor stores who are officers, agents or employes of the State Government to arrest and fine and imprisonment for having performed their official duties.

(d) To pay the tax so unlawfully demanded by defendants would be a burden and an interference with the sovereign independence of complainant in its governmental capacity and necessitate a multiplicity of suits to recover back the amounts so paid.

(e) Since the adoption by the states of the 21st Amendment to the Constitution of the United States, a number of other states, like complainant, have, in view of past experience in dealing with the liquor traffic, found it necessary in the exercise of their police powers to take complete and exclusive control of this traffic as a governmental and sovereign function, with the result that in view of present economic conditions and the resultant strained financial conditions of complainant and other states, the remedy provided by law for payment of federal taxes, followed by a multiplicity of actions not only by Ohio, but by other states,

to recover the amount of taxes so paid, is wholly inadequate.

WHEREFORE, the complainant respectfully prays the Court, pending the final hearing of this case, to issue a temporary restraining order against the defendants and each of them and any and all of their deputies, agents, assistants and employes as hereinafter prayed for.

The complainant further prays the court upon final hearing:

That a permanent injunction be issued against the defendants and each of them, and any and all of their deputies, agents, assistants and employes, restraining and forbidding the defendants and each of them, and any and all of their deputies, agents, assistants and employes, to require or take any proceedings or steps to require the complainant, its officers, agents and employes to pay any federal retail or wholesale liquor dealer's tax, or to require the making or the filing of any returns for the purposes of such taxes, either in the name of the complainant, the Department of Liquor Control of the State of Ohio, or any officer, agent or employe of the complainant;

That the defendants and each of them, and any and all of their deputies, agents, assistants and employes be forbidden to forfeit, seize, levy or distrain upon, or to take any proceedings or steps to forfeit, levy, seize or distrain upon, any liquors or other property of the complainant because of any failure or refusal of the complainant, the Department of Liquor Control, and/or the officers, agents and employes of the complainant to make any such returns, or to pay any such taxes or to otherwise comply with any act or regulation concerning such taxes;

That the defendants and each of them, and any and all of their deputies, agents, assistants and employes be for-

bidden to file or to institute or cause to be filed or instituted any complaint, civil or criminal, against the complainant, the Department of Liquor Control, or the officers, agents and employes of the complainant for any failure or refusal to pay such taxes or to make such returns or to otherwise comply with any act or regulation concerning such taxes or returns;

That the defendants and each of them and any and all of their deputies, agents, assistants and employes, be forbidden from interfering by legal proceedings or otherwise with the operation or management of the liquor stores operated by the complainant through its officers, agents and employes throughout Ohio or with the complainant, its officers, agents and employes, the Department of Liquor Control, in carrying out the governmental purposes authorized by the legislature of the State of Ohio in respect to the sale and distribution of spirituous liquor in Ohio, because of the failure or refusal of the complainant or its officers, agents and employes to pay such taxes or to make such reports or to otherwise comply with any act or regulation concerning such taxes.

The complainant further prays that such other and further relief be granted as equity and justice require and which to the Court shall be seen proper.

STATE OF OHIO,
By JOHN W. BRICKER,
*Attorney General.*
WILLIAM S. EVATT,
*Chief Counsel.*
ISADORE TOPPER,
*Assistant Attorney General,*
*Attorneys for Complainant.*

**Verification.**

UNITED STATES OF AMERICA,
*State of Ohio,*
*County of Franklin, ss:*

JOHN A. HUGHES, being first duly sworn, according to law, deposes and says that he is the acting Director of the Department of Liquor Control of the State of Ohio; that he has read the foregoing bill of complaint; that the facts contained in said bill of complaint, which are within his own knowledge, are true and correct and that the facts averred upon information received from others are based upon information received from reliable sources and which facts he believes are true.

JOHN A. HUGHES.

Sworn to before me and subscribed in my presence this 27th day of March, 1934.

[Notarial Seal, Franklin County, Ohio.]

ROBERT B. BARCUS,
*Notary Public, Franklin County, Ohio.*

**Verification.**

UNITED STATES OF AMERICA,
*State of Ohio,*
*County of Franklin, ss:*

JOHN W. BRICKER, being duly sworn on oath says that he is the duly elected, qualified and acting Attorney General of the State of Ohio and that as such Attorney General of

the State of Ohio, he is duly authorized to pray leave to file the said bill of complaint.

JOHN W. BRICKER,
*Attorney General of the State of Ohio.*

Subscribed and sworn to before me by John W. Bricker this — day of ——, 1934.

—— ——,
*Notary Public in and for*
*Franklin County, Ohio.*

My commission expires the — day of —— 193–.

## APPENDIX A.

(House Bill No. 1.)

AN ACT

To provide a system of control of the manufacture and importation of and traffic in beer and intoxicating liquors in this state, including a state monopoly of the distribution and sale of spirituous liquor; for that purpose to create the department of liquor control, to consist of the board of liquor control and the director of liquor control and define their respective powers and duties; to levy a tax on the sale of wine and spirituous liquor and a gross excess profits tax on the manufacture and sale of spirituous liquor, for the use of the general revenue fund of the state; to amend sections 6203, 6212-43, 6212-49a, 6212-50, 6212-23, 6212-58, 6212-63, 6212-64, 12960, 13195-1, 13195-3, 13422-3 and 13422-6 of the General Code; to repeal sections 5223, 5266, 5669, 6030 to 6035, both inclusive, 6067 to 6069, both inclusive, 6071, 6071-1, 6075 to 6080, both inclusive, 6085, 6086, and 6086 as amended 102 O. L., 277, 6108 to 6120, both inclusive, 6187 to 6202, both inclusive, 6205, 6212-13 to 6212-17, both inclusive, 6212-17a, 6212-17d, 6212-17e, 6212-17f, 6212-17g, 6212-18 to 6212-42, both inclusive, 6212-44 to 6212-48, both inclusive, 6212-51, 6212-54, 6212-54a, 6212-55 to 6212-57, both inclusive, 12957, 12958, 12959 and 13195-2 of the General Code; and to declare an emergency.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. This act shall be known and may be cited as the Liquor Control Act.

As used in and for the purposes of this act:

The phrase "intoxicating liquor" includes any and all liquids and compounds which contain more than 3.2 per centum of alcohol by weight and are fit for use for beverage purposes, from whatsoever source and by whatsoever process produced, by whatsoever name called and whether

or not the same are medicated, proprietary, or patented; and any and all solids which contain any alcohol.

"Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever may be the origin thereof, and includes synthetic ethyl alcohol; but such term excludes denatured alcohol and wood alcohol.

"Beer" includes all beverages containing one-half of one per centum or more of alcohol by weight but not more than 3.2 per centum of alcohol by weight.

"Wine" includes all intoxicating liquors containing not more than seventeen per centum of alcohol by volume.

The term "spirituous liquor" includes all intoxicating liquors containing more than seventeen per centum of alcohol by volume.

"Department" means the department of liquor control, hereby created. "Board" means the board of liquor control, hereby created; and "director" means the director of liquor control, hereby created.

"Person" includes firms and corporations.

"Commission" means the tax commission of Ohio.

"Manufacture" includes all processes by which intoxicating liquor is produced, whether by distillation, rectifying, blending, fermentation, brewing, or in any other manner whatsoever; and "manufacturer" means any person engaged in the business of manufacturing intoxicating liquor as herein defined.

The terms "wholesale distributor" and "distributor" mean a person engaged in the business of selling to retail dealers for purposes of resale.

"Hotel" shall have the meaning defined in section 843-1 of the General Code, subject to the exceptions mentioned in section 843-3 of the General Code.

"Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold and served at noon and evening, as the principal business of the place; but the meaning of said word excludes drug stores, confectionery stores, lunch stands, night clubs and filling stations.

"Club" means a corporation or association of individuals organized or formed in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part thereof operated solely for such purposes and membership in which entails the prepayment of regular dues and includes the place so operated.

"Night club" means a place regularly and habitually operated for profit after the hour of midnight, where food is served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration which may be in the form of a cover charge, or may be included in the price of the food and beverages, or both, purchased by the patrons thereof.

The term "at retail" means for use or consumption by the purchaser and not for resale. The term "drug store" means an establishment as defined in section 12705 of the General Code of Ohio which is under the management or control of a legally registered pharmacist.

The term "contract carrier" includes all persons transporting intoxicating liquor or alcohol belonging to or consigned to others or intended for sale to others, otherwise than as common carriers.

SECTION 2. The department of liquor control is hereby created, to consist of a board of liquor control of four members, not more than two of whom shall be of the same political party, and a director of liquor control. The members of the board and the director shall be appointed by the governor with the advice and consent of the senate. Upon the taking effect of this act, the governor shall appoint the director, and also two members of the board, who shall not be of the same political party, for terms ending on the first Monday in February, 1935, and two for terms ending on the first Monday in February, 1937. Biennially thereafter two members shall be so appointed for terms of four years, commencing on the first Monday of February.

In the event of the death, removal, resignation, or incapacity of a member, the governor, with the advice and con-

sent of the senate, shall appoint a successor to fill the unexpired term. The governor may at any time remove any member for misfeasance, nonfeasance, or malfeasance in office.

SECTION 3. The board of liquor control shall have power:

1. To adopt and promulgate, repeal, rescind, and amend, in the manner herein required, rules, regulations, standards, requirements, and orders necessary to carry out the provisions of this act, including the following:

(a) Rules and regulations governing the management of the state liquor stores established and created by this act, and the manner of conducting them.

(b) Rules and regulations with reference to applications for and the issuance of permits, for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor, and the sale of alcohol, subject to the provisions of this act; and governing the procedure of the department in the suspension, revocation, and cancellation of such permits.

(c) Rules, regulations, and orders providing in detail for the conduct of any retail business authorized under permits issued pursuant to this act, with a view to insuring compliance with the provisions of this act and other laws relative thereto, and the maintenance of public decency, sobriety, and good order in any place licensed under such permits.

(d) Standards, not in conflict with those prescribed by any law of this state, to secure the use of proper ingredients and methods in the manufacture of beer and intoxicating liquor to be sold within this state.

(e) Rules and regulations determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor to be kept or sold under this act, whether in state liquor stores or otherwise; and governing, consistently with the law, the form of all seals and labels to be used thereon. The board shall re-

quire the label on every package and bottle to state the ingredients in the liquor therein contained together with its age and alcoholic content.

(f) Uniform rules and regulations governing all advertising with reference to the sale of beer and intoxicating liquor throughout the state and advertising upon and in premises licensed for the sale of beer or intoxicating liquor.

(g) Rules and regulations restricting and placing conditions upon the transfer of permits.

(h) Rules, regulations, and orders limiting the number of permits of any class within the state or within any political subdivision of the state; and for such purpose adopting reasonable classifications of persons or establishments to which any class of permits provided for by this act may be issued within any such political subdivision.

(i) Rules, regulations, and orders consistent with the provisions of this act, with reference to sales of beer and intoxicating liquor on Sundays and holidays and with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and regulations with reference to the manner of sale.

Every rule, regulation, standard, requirement or order of the board, and repeal, amendment, or rescission thereof, shall be posted for public inspection in the principal office of the department and a certified copy thereof shall be filed in the office of the secretary of state. An order applying only to a person or persons named therein shall be served on the person or persons affected, by personal delivery of a certified copy, or by mailing such certified copy to each person affected thereby, or in the case of a corporation, to any officer or agent thereof upon whom a service of summons may be served in a civil action. The posting and filing required by this act shall constitute due and sufficient notice to all persons affected by such rule, regulation, or order which is not hereby required to be served. General rules and regulations of the board adopted and promulgated pursuant to this section shall be

published in such manner as the board may from time to time determine.

2. From time to time to fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the department. Such retail prices shall be the same at all state liquor stores which may be established pursuant to this act. In fixing selling prices, the department may compute an anticipated gross profit of not to exceed thirty per cent, based on costs, plus the sum required by section 10 of this act to be paid into the state treasury. Provided, however, that on spirituous liquor manufactured in Ohio from the juice of grapes grown in Ohio the department shall compute an anticipated gross profit of not to exceed ten per cent.

3. To approve and adopt all forms for use in the administration of this act, excepting those relating to taxation.

4. For the purposes of this act, excepting the penal provisions thereof, to interpret and clarify any term in this act, whenever it may be found that such interpretation or clarification is required for the purpose of certainty, and to carry out the manifest policy of this act.

5. To consider, hear, and determine all appeals authorized by this act to be taken from any decision, determination or order of the department. The board shall accord a hearing to any person so appealing, in which such person shall have the right to be present, to be represented by counsel, to offer evidence, and to require the attendance of witnesses. In any such case, the decision of the board, made after such hearing, shall be final.

6. To adopt, repeal, and amend by-laws in relation to its meetings and the transaction of its business and regulating its procedure on appeal, consistently with the provisions of this act.

7. To consider and make recommendations upon any matter which the director may submit to it for recommendation and to pass upon and determine any matter which he shall submit to it for determination.

8. To require of the director and of any officer, department, board, or commission of the state government or of any county, township, or municipal officer in this state, information with respect to the social and economic effects of this act; and all such officers, departments, boards, and commissions are hereby required to furnish such information when requested in writing by the board.

9. To submit to the governor amendments to this act or any other act affecting the sale of intoxicating liquor in this state when it deems desirable.

10. For the purpose of any hearing or investigation which it is authorized or required by this act to conduct, the board or its director as its executive secretary, or any agent of the department designated in writing for that purpose, shall have power to administer oaths, take depositions, issue subpœnas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In case of disobedience of any person to comply with the order of the board or a subpœna issued by the board, or any of its members, the director, or such agent, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the common pleas judge of the county in which the person resides, on application of any member of the board, or its director, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of a subpœna issued from such court or a refusal to testify therein. Each officer who serves such subpœna shall receive the same fees as a sheriff and each witness who appears, in obedience to a subpœna, before the board, or a member, or the director, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of common pleas, which shall be audited and paid in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers, approved by any two members of the board. No witness subpœnaed at the instance of a party other than the board, or one of its members, or the director, or such agent, shall be entitled to

compensation unless the board shall certify that his testimony was material to the matter investigated.

The foregoing enumeration of powers of the board of liquor control shall not derogate from or prejudice any other power expressly or impliedly granted to the board by any other provision of this act; but excepting as herein expressly provided, the board shall not have or exercise executive or administrative duties or powers.

SECTION 4. The board of liquor control shall annually choose its own chairman. It shall from time to time compile and cause to be published in reasonable detail, information as to its financial and other operations; and shall hold not less than four public hearings annually for the purpose of hearing general complaints as to its policies under this act, receiving suggestions with respect thereto, and for the dissemination of information to the public. All of the records of the proceedings of the department shall be open to public inspection.

SECTION 5. The director of liquor control and each member of the board of liquor control shall devote his entire time to the duties of his office and shall hold no other position of trust or profit. No member of the board of liquor control, nor the director, nor any of the appointees or employees of the department, shall have any financial interest, directly or indirectly, in the manufacture, distribution, or sale of beer or intoxicating liquor.

Each member of the board of liquor control shall receive an annual salary of four thousand five hundred dollars, together with his actual and necessary traveling expenses incurred in the performance of his official duties.

The director of liquor control shall receive an annual salary of six thousand five hundred dollars and his actual and necessary traveling expenses incurred in the performance of his official duties.

SECTION 6. Each member of the board of liquor control, and the director of liquor control, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office and give bond to the state of Ohio

in the amount of one hundred thousand dollars, conditioned according to law, with surety to the approval of the governor. Such bond shall be filed and kept in the office of the secretary of state. The director may require any employee of the department to give like bond in such amount as the board may prescribe, with surety to the satisfaction of the board, which shall be filed and kept in the office of the department. The premium, if any, on any bond required or authorized by this section may be paid from the moneys received for the use of the department under authority of this act or from appropriations made by the general assembly.

SECTION 7. The director of liquor control shall be the executive secretary of the board of liquor control. Subject only to the powers and duties of the board as set forth in section 3 of this act, all the powers and duties by this act vested in or imposed upon the department shall be exercised and performed by the director, who shall administer the affairs of the department, excepting as otherwise specified in this act.

SECTION 8. The department of liquor control shall have all the powers and duties vested in and imposed upon a department of state administration by sections 154-17, 154-18, 154-19 and 154-22 of the General Code; and all the powers of the board of liquor control which shall be exercised by the board in the name of the department. In addition thereto, the department shall have and exercise the following powers:

1. To control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale thereof, as in this act provided.

2. To grant, refuse, suspend, revoke and cancel permits for the manufacture, distribution, transportation and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this act.

3. To put into operation, manage and control a system of state liquor stores for the sale of spirituous liquor at

retail and to holders of permits authorizing the sale of such liquor, to be established throughout the state as hereinafter provided; and thereby and by means of such manufacturing plants, distributing and bottling plants, warehouses and other facilities as it may deem expedient in connection therewith, to establish and maintain a state monopoly of the distribution of such liquor and the sale thereof in packages or containers; and for such purpose to manufacture, buy, import, possess, and sell spirituous liquors in the manner provided in this act and in the regulations adopted and promulgated by the board pursuant to this act; to lease or in any manner except by purchase, acquire the use of any land or building required for any of such purposes; to purchase such equipment as may be required to effectuate the purposes of this act; to borrow money to inaugurate and carry on its business, and to issue, sign, endorse, and accept, notes, checks, and bills of exchange; but any and all obligations of the department created under authority of this paragraph shall be a charge only upon the moneys received by the department from the sale of spirituous liquor pursuant to this act and its other business transactions in connection therewith, and shall not be general obligations of the state of Ohio.

4. To enforce the provisions of this act and the rules, regulations, and orders of the board of liquor control and the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a police or municipal court, shall at the request of the department prosecute any person charged with the violation of any of the penal provisions of this act or of any section of the General Code relating to the manufacture, importation, transportation, distribution and sale of beer and intoxicating liquor.

5. Subject to the provisions of this act, to determine the locations of all state liquor stores and manufacturing, distributing and bottling plants required in connection therewith.

6. For the purpose of carrying out the provisions of this section, to determine the retail selling price as defined in this act of each brand and class of wine offered for sale in this state. The determinations of the department under this paragraph shall be certified to the tax commission of Ohio and shall be posted, filed, and published in the manner provided in section 3 of this act with respect to rules, regulations and orders of the board of liquor control. The commission and all persons whose duty it is under this act to affix stamps for the payment of the tax on the sale of wine, imposed by this act, shall be guided by such determinations in the administration and observance of said taxing provisions. Any holder of a permit deeming himself aggrieved thereby may appeal from the determination of the department to the board of liquor control, whose decision thereon shall be final.

7. For the purpose of carrying out the provisions of this act and enforcing the laws of this state relating to the manufacture, importation, transportation, distribution and sale of beer and intoxicating liquor, and the sale of alcohol, to inspect, upon demand, the books, accounts, records, and memoranda, or either, of any person subject to the provisions of this act or such laws and the place where the business of such person is conducted.

8. To delegate to any of its agents or employees any power of investigation and inquiry which the department may possess; and the powers of police officers with respect to the enforcement of any of the penal laws of this state relating to beer and to intoxicating liquor. Except in his report to the department or when called upon to testify in any court or proceeding, any such agent or employer who shall divulge any information acquired by him with respect to the transactions or the business of any person while acting as such agent or employee, shall be fined not less than fifty dollars and not more than one thousand dollars and shall thereafter forever be disqualified from acting as agent or in any other capacity under the appointment or employment of the department.

9. All other powers expressly or by necessary implication conferred upon the department by any provisions of this act; and all powers necessary and proper for the exercise or discharge of any power, duty or function expressly conferred or imposed upon the department by any provision of this act.

The department of liquor control shall be a body corporate with capacity in such name to sue and be sued, to make and enter into leases and contracts of all descriptions within the scope of its functions as defined in this act, and to acquire and transfer title to personal property. The department of liquor control may terminate at will any lease entered into pursuant to this act upon first giving ninety days' notice in writing to the lessor of its intention so to do.

All contracts of lease for a state liquor store entered into by the department shall be made in writing with the lowest and best bidder after an advertisement in a newspaper of general circulation in the community wherein it is proposed to establish such store. In determining which is the lowest and best bid the department shall have consideration for the length of lease, location, size, character, quality of construction and general fitness for use as such store of the premises for which a bid is submitted.

The board shall have the power to prescribe the form of bid and shall prescribe rules and regulations pertaining to the receiving of same and the advertisement thereof; provided, however, that before accepting a bid and before entering into any contract of lease of the premises for use as a state liquor store the department shall cause to be published in a newspaper of general circulation in the community wherein such premises are located a synopsis of the terms of such proposed lease including name of lessor, location of premises and yearly rental therefor. If such newspaper is a weekly publication only such synopsis shall be published on one occasion. If such newspaper is a daily publication such synopsis shall be published on three successive days.

The department may reject any or all bids. If it rejects all bids it shall then proceed to readvertise for bids for

such leases and may continue to readvertise for such bids until a bid or bids are received made to the satisfaction of the department in conformity to the provisions of this act and the rules and regulations of the board pertaining thereto.

No member of the board, or any officer or employe of the department shall either directly or indirectly have any interest in any contract of lease entered into by the department.

SECTION 9. All moneys received from the sale of liquor at state liquor stores or otherwise, or arising in the administration of this act, other than from taxes, shall be paid to the department of liquor control and shall be accounted for and paid over by the department to the treasurer of state as custodian, in the manner provided by section 10 of this act.

SECTION 10. The department shall by regulation provide for the custody, safekeeping, and deposit of all moneys received by it or any of its employees or agents on its behalf; but the department shall pay to the treasurer of state all moneys, checks, and drafts received for the department or for the state, at the time and in the manner provided by sections 24, 24-3, and 24-4, of the General Code, subject to contingent withdrawal in the manner provided by section 24-5 of the General Code. For emergency or petty expenditures, if the director of finance approves, the auditor of state shall issue to the department of liquor control a warrant for petty cash, from the funds in the custody of the treasurer of state for the use of the department, in the amount recommended and approved by the director of finance. The department shall render to the auditor of state and to the director of finance a detailed account of the expenditures of such petty cash, classified as the director of finance shall prescribe, and shall report when requested by the director of finance the balance of petty cash on hand at any time. Thereafter upon written recommendation of the director of finance the auditor of state shall issue warrants to such department to replace petty cash lawfully expended, but not to increase the aggregate

of such petty cash at any time above the amount approved by the director of finance. In any event (a) a sum equal to one dollar for each gallon of spirituous liquor sold by the department during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund in the manner provided by law; and (b) all moneys received from permit fees shall be so paid to the treasurer of state and a separate account thereof shall be kept by the department, the auditor of state, and the treasurer of state. The treasurer of state shall be the custodian of all moneys collected by the department excepting such moneys as are required by this act to be paid by the department into the state treasury. Within ten days after this act shall take effect, the treasurer of state shall give a separate and additional bond, in such amount as may be fixed by the governor, and with sureties to his approval, conditioned for the faithful performance of his duties as custodian of such moneys. Such bond shall be deposited with the secretary of state and kept in his office. Thereafter, the official bond of the treasurer of state and such additional bond or bonds as may be required of the treasurer of state under the provisions of section 298 of the General Code, shall be liable for the proper discharge of the duties of the treasurer of state as custodian of such moneys. All such moneys shall be deposited in the same manner and subject to all the provisions of law with respect to the deposit of state funds by the treasurer of state: and all interest earned by such deposits shall be collected by him and added to the principal thereof.

The moneys in the custody of the treasurer of state for the use of the department of liquor control shall be known as the "liquor control rotary fund" and shall be disbursed on the order of the auditor of state, in form prescribed by him, on the treasurer of state as custodian as aforesaid, pursuant to vouchers or invoices signed by the director of the department of liquor control, in such form as the auditor of state shall prescribe. The cost of examinations by state examiners of the bureau of inspection and supervision of public offices rendered to the department of liquor control, shall be charged against the moneys in the custody

of the treasurer of state for the use of the department, by the auditor of state on statements rendered quarterly for services rendered during the preceding quarter.

Whenever, in the judgment of the board, the amount in the custody of the treasurer of state to the credit of the liquor control rotary fund is in excess of that needed to meet the maturing obligations of the department and as working capital for its further operations, the board shall certify the amount of such excess to the department of finance, together with such other facts and information as the department of finance may require. Thereupon the department of finance shall examine the records of the department of liquor control and determine therefrom and from any other facts or information coming to its knowledge, the amount, if any, of such excess. The amount so determined by the department of finance shall be certified to the department of liquor control and to the auditor of state, and the auditor of state shall thereupon issue an order on the treasurer of state as custodian of moneys collected under this act for the amount thereby determined, to the general revenue fund of the state and a pay-in order in like amount, in the manner provided by law.

SECTION 11. Subject to the local option provisions of this act, one state liquor store shall be established in each county; and one additional store may be established in any county for each forty thousand of population of such county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal census. In any location in which the department may deem it inadvisable to establish and maintain a state liquor store as a separate establishment, and in every municipality in which there is no such state liquor store, the department may appoint a person who is engaged in a mercantile business thereat as its agent for the sale of spirituous liquor and fix his compensation, which shall be in the form of an annual salary and not otherwise. The department shall require every such agent to give bond with surety to the satisfaction of the department, in such amount as the department may fix, conditioned for the faithful performance of his

duties as prescribed by the department. The department may purchase spirituous liquor in barrels, casks, or other containers, and may establish a plant or plants for the manufacture of spirituous liquor or for the blending and bottling of such liquor. All spirituous liquors manufactured, blended or bottled by the department must be so labeled.

SECTION 12. The department shall sell spirituous liquor only, whether from a warehouse or from a state liquor store. All sales shall be in sealed containers and for resale as authorized by this act or for consumption off the premises only. The department shall not sell on credit. Deliveries shall be made in such manner as the board of liquor control by rule or regulation may determine.

The department shall list for sale the products of any manufacturer requesting it, and whose products can legally be sold in Ohio through the state liquor stores. Such stores shall carry a consigned stock of those manufacturers, who so request it, and any intoxicating liquors shall be sold on consignment to this state. All such liquor so consigned in state liquor stores shall be held at the risk of the consignor.

All purchasers of spirituous liquor from the department shall be required to fill out a prescribed form of purchase order, stating the quantity and kind desired, together with the name and address in writing of such purchaser.

If any person shall desire to purchase any variety or brand of spirituous liquor which is not in stock at the state liquor store where the same is ordered, the department shall immediately procure the same, by order or otherwise, upon the making of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the rules or regulations of the board. The customer shall be immediately notified upon the arrival of the spirituous liquor so ordered at the store at which it was ordered. Unless he pays for the same and accepts delivery thereof within five days after the giving of such notice, the department may place such spirituous liquor in stock for general sale, and the deposit of the customer shall be forfeited.

SECTION 13. Nothing in this act shall be construed to prevent the storage of intoxicating liquor in bonded warehouses established in accordance with the acts of congress and the regulations of the government of the United States, located in this state, or the transportation of intoxicating liquor to or from bonded warehouses of the United States wherever located; or to prevent a bona fide resident of this state who is the owner of a warehouse receipt from obtaining or transporting to his residence for his own consumption and not for resale spirituous liquor stored in a bonded warehouse, either in this state or in another; or the manufacture of cider from fruit, for the purpose of making vinegar, and non-intoxicating cider and fruit juice for use and sale; or to prevent a duly licensed physician or dentist from administering or dispensing intoxicating liquor or alcohol to a patient in good faith in the actual course of the practice of his profession; or to prevent the sale of alcohol to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, medical or educational institutions using the same for medicinal, mechanical, chemical or scientific purposes; or the sale or gift or keeping and storing for sale by druggists and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States pharmacopoeia and national formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicine and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax; or to prevent the manufacture and sale of tincture or of toilet, medicinal, and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, if upon the outside of each bottle, box or package of which there is printed in the English language, conspicuously and legibly, the quantity by volume of alcohol in such preparation or solution; or the manufacture and keeping for sale of the food products

known as flavoring extracts when manufactured and sold for cooking, culinary or flavoring purposes, and which are unfit for use for beverage purposes; or the lawful sale of wood alcohol or of ethyl alcohol for external use when combined with such other liquids, or substances, as to make it unfit for internal use.

SECTION 14. No person shall directly or indirectly, himself or by his clerk, agent, or employe, manufacture, manufacture for sale, keep or possess for sale, furnish or sell any beer or intoxicating liquor in this state, or sell at retail any alcohol in this state, or transport or import any beer or intoxicating liquor or alcohol in or into this state for delivery or use herein, unless such person shall have fully complied with the provisions of this act and shall be the holder of a permit issued by the department of liquor control and in force at the time.

SECTION 15. The following classes of permits may be issued:

Permit A-1: A permit to a manufacturer to manufacture beer and other malt liquor containing not more than six percentum of alcohol by weight and sell such product in bottles or other containers for home use and to retail and wholesale permit holders under such regulations as may be promulgated by the department. The fee for this permit shall be computed on the basis of the annual production of each plant; the initial fee shall be one thousand dollars for each plant producing five thousand barrels or less annually, and said initial fee shall be increased at the rate of five cents per barrel for all beer manufactured in excess of five thousand barrels during the year covered by the permit.

Permit A-2: A permit to a manufacturer to manufacture wine and sell such product either in glass or container, for consumption on the premises where manufactured, for home use and to retail permit holders in sealed containers only, and to wholesale permit holders under such regulations as may be promulgated by the department. The fee

for this permit shall be twenty dollars for each plant producing one hundred wine barrels, of fifty gallons each, or less annually; and said initial fee shall be increased at the rate of ten cents per such barrel for all wine manufactured in excess of one hundred barrels during the year covered by the permit.

Permit A-3: A permit to a manufacturer to manufacture spirituous liquor and sell such product to the department only, to import into this state spirituous liquor for blending or other manufacturing processes, and to export from this state spirituous liquor in bulk or otherwise for sale outside this state. The fee for this permit shall be one thousand dollars for each plant; but in case of a plant producing less than five hundred wine barrels of fifty gallons each, annually, the fee shall be at the rate of two dollars per barrel.

Permit B-1: A permit to a wholesale distributor of beer to bottle, distribute, or sell such product for home use and to class C-1, class D-1, D-4, D-5, class E and class F permit holders under such regulations as may be promulgated by the department. The fee for this permit shall be computed on the basis of annual sales and distribution of beer. The initial fee shall be one thousand dollars for each distributing plant or warehouse and said initial fee shall be increased at the rate of five cents per barrel for all beer distributed and sold in Ohio in excess of five thousand barrels during the year covered by the permit.

Permit B-2: A permit to a wholesale distributor of wine to bottle, distribute or sell such product for home use and to class C-2, class D-2, D-4, D-5, and class E permit holders, in sealed containers only. The fee for this permit shall be five hundred dollars for each distributing plant or warehouse; and said initial fee shall be increased at the rate of ten cents per wine barrel of fifty gallons for all wine distributed and sold in Ohio in excess of twelve hundred and fifty such barrels during the year covered by the permit.

Permit B-3: A permit to a wholesale distributor of wine to bottle, distribute or sell sacramental wine for religious

rites upon applications signed, dated and approved in the manner required for the purchase of wine for such purposes under class G permits by the fourth sub-paragraph of section twenty-two of this act. The fee for this permit shall be twenty-five dollars.

Permit C-1: A permit to the owner or operator of a retail store to sell beer in sealed containers only and not for consumption on the premises where sold, in original packages containing not less than one container and in total quantities at each sale of not more than five hundred seventy-six fluid ounces. The fee for this permit shall be fifty dollars for each location.

Permit C-2: A permit to the owner or operator of a retail store to sell wine in sealed containers only and not for consumption on the premises where sold, in original packages containing not less than one container and in total quantities at each sale of not more than three hundred eighty-four fluid ounces. The fee for this permit shall be fifty dollars for each location.

Permit D-1: A permit to the owner or operator of a hotel or restaurant licensed pursuant to section 843-2 of the General Code, or of a club, amusement park, drug store, lunch stand, boat or vessel, to sell beer at retail either in glass or container, for consumption on the premises where sold; and to sell beer at retail in other receptacles or in original packages containing not less than one container and in total quantities at each sale of not more than 96 fluid ounces and not for consumption on the premises where sold. The fee for this permit shall be one hundred dollars for each location, boat or vessel.

Permit D-2: A permit to the owner or operator of a hotel or restaurant licensed pursuant to section 843-2 of the General Code, or of a club, boat, or vessel, to sell wine at retail, either in glass or container, for consumption on the premises where sold, only at tables where meals are served. The fee for this permit shall be one hundred dollars for each location, boat or vessel.

Permit D-3: A permit to the owner or operator of a hotel or restaurant licensed pursuant to section 843-2 of the General Code, or a club, boat or vessel, to sell spirituous liquor at retail, in glass and from the container, for consumption on the premises where sold, only at tables where meals are sold. The fee for this permit shall be four hundred dollars for each location, boat or vessel.

Permit D-4: A permit to a club which shall have been in existence for a period of three years or more prior to the issuance thereof, to sell beer and any intoxicating liquor to its members only, in glass or container, for consumption on the premises where sold. The fee for this permit shall be one hundred dollars.

Permit D-5: A permit to the owner or operator of a night club to sell beer and any intoxicating liquor, at retail, in glass and from the container, for consumption on the premises where sold, only at tables where meals are served. The fee for this permit shall be one thousand dollars.

Permit E: A permit to the owner or operator of any railroad or to a sleeping car company, operating dining cars, buffet cars, club cars, lounge cars or similar equipment, to sell beer or any intoxicating liquor in any such car to bona fide passengers at retail in glass and from the container for consumption in such car. The fee for this permit shall be fifty dollars.

Permit F: A permit to any bona fide charitable organization to sell beer for any special function lasting for a period not to exceed five days. The fee for this permit shall be five dollars.

Permit G: A permit to the owner of a drug store in charge of a registered pharmacist to be named therein, for the sale of any intoxicating liquor or alcohol upon the written prescription of a physician or dentist who is lawfully and regularly engaged in the practice of his profession in this state; for the sale of any intoxicating liquor for medicinal, mechanical, chemical or scientific purposes, to any hospital, infirmary, medical or educational institution where such liquors are used only for medicinal, mechanical,

chemical or scientific purposes; for the sale of any intoxicating liquor to any physician or dentist who is lawfully engaged in the practice of his profession in this state, for use in his practice; physician, dentist or veterinary surgeon who is lawfully engaged in the practice of his profession in this state, for use in his practice; for the sale of wine for the sacramental purposes of any church or other religious body, to any recognized official thereof; and for the sale of alcohol for mechanical, chemical or scientific purposes to a person known by the seller to be engaged or employed in such mechanical, chemical or scientific pursuits; all subject to the provisions of this act relative to such sales. The fee for this permit shall be twenty-five dollars.

Permit H: A permit to a common carrier or a contract carrier to transport or import beer, intoxicating liquor or alcohol, or any or all of them, in this state, for delivery or use in this state. The fee for this permit shall be five dollars.

All initial fees prescribed by this section shall be paid when permits are issued; all other fees shall be paid at such time or times and in such manner as may be prescribed by the department. The board of liquor control may adopt and promulgate rules and regulations requiring reports or returns for the purpose of determining the amounts of such additional permit fees, and the basis of determining the amounts of class E permit fees.

Section 15a. Upon the taking effect of this act the state board of pharmacy shall issue to any wholesale distributor who is the holder of a class B permit heretofore or hereafter issued by the 'Ohio liquor control commission' or by the department, or to any wholesale distributor or owner or operator of a retail drug store in this state who has been duly authorized by the Federal government to distribute or to sell intoxicating liquor under the national prohibition act, a temporary permit to distribute and sell, or to sell, as the case may require, intoxicating liquor and alcohol until the expiration of sixty days after this act shall take effect. The fee for this permit shall be fifty dollars, which

when collected shall be paid by the board to the treasurer of state as custodian of the undivided liquor permit fund created by this act; provided, however, that holders of permits issued by the 'Ohio liquor control commission' or by the department shall not be required to pay such fee. Such temporary permits shall be issued only on application and exhibition of the permit or other evidence of authority issued by the proper authority of this state or department of the government of the United States and payment of such permit fee as is hereby required, and shall be limited to the person and place named in such evidence of authority. The board of pharmacy shall upon application also issue a temporary permit to any retail drug store in charge of a registered pharmacist and doing business as such on December 15, 1933. Such temporary permits shall have the force and effect of a permit issued by the department under authority of this act and shall be subject to revocation, suspension or cancellation by the department as provided in this act. Such a temporary permit issued to the owner or operator of a retail drug store shall entitle the holder thereof, during the period herein mentioned, to sell any intoxicating liquor in sealed containers only and not for consumption on the premises where sold, in original packages containing not less than one container, and in total quantities at each sale of not more than three hundred eighty-four fluid ounces, and to sell sacramental wine and alcohol under the restrictions specified in section 23 of this act for the sale of such wine and alcohol. As soon as the department of liquor control shall be organized and upon request of the director thereof, the state board of pharmacy shall certify to the department and to the commission a list showing the names and addresses of the holders of all temporary permits issued by said board, and the type of permit issued to each; and thereafter, during said period of sixty days, the board shall, upon the issuance of any such temporary permit, forthwith certify the facts with respect thereto to the department and to the commission.

It shall be unlawful for the holder of a temporary retail permit issued under this section, either directly or indirectly, to solicit the sale of intoxicating liquor or alcohol

through advertising or otherwise; or to display intoxicating liquor in windows or to display such liquor conspicuously at any place within his store; provided, however, that nothing in this paragraph shall be construed to prohibit the display within a store of not more than three printed announcements of a size not exceeding forty-eight inches square with the wording: "This store is temporarily licensed to sell intoxicating liquor at retail"; nor the posting within a store in a printed announcement of like size of a list of the brands of intoxicating liquor offered for sale therein, and the prices charged for the same. Whoever violates any provision of this paragraph shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars; and such conviction shall work a forfeiture of such temporary permit and render the person convicted ineligible to receive or hold any type of permit authorized by this act.

The department of liquor control may at any time within the sixty day period specified in this section, by written order promulgated as provided in this act, extend any or all temporary permits issued pursuant to this section for a further specified period not exceeding sixty days after the expiration of said original sixty day period; but all such extensions shall be subject to cancellation at any time within said period of extension on ten days' notice given by the department by mail to the holder or holders thereof.

The issuance of the temporary permits provided for in this section shall be subject to the applicable provisions of sections 17 and 20 of this act, and retail sales thereunder shall be subject to the applicable provisions of section 22 of this act. The provisions of sections 18, 24 and 43 of this act shall not apply to holders of such temporary permits.

A tax is hereby imposed on the sale of intoxicating liquor at retail by the holders of temporary permits issued under this section at the rate of ten per centum of the gross receipts derived from such sales, for the use of the general revenue fund of the state. The tax commission of Ohio shall have power to adopt rules and regulations prescrib-

ing the manner of making returns, the form thereof, and the time of filing the same and paying the tax hereby imposed. Upon determining the amount of such tax due from any holder of such permit the commission shall certify such amount in duplicate to the auditor of state and to the treasurer of state. The treasurer of state shall notify such person charged with such tax of the amount thereof and such person shall pay such amount to the treasurer of state within ten days after the giving of such notice. If any holder of a permit issued under this section fails to make a return as required by the rules and regulations of the commission, or makes a false or incorrect return, the commission shall have and exercise all powers vested in it by any law of this state relating to taxation for the purpose of ascertaining the gross receipts of such permit holder from sales of intoxicating liquor subject to the tax hereby imposed and shall certify any omitted taxes so ascertained, together with the penalty herein prescribed, to the auditor of state and the treasurer of state as provided in this section.

The following penalties are hereby imposed: For failure to make return or making false return, fifteen per centum of the amount determined by the commission pursuant to this section; for failure to pay the tax hereby imposed at the time the same is due, fifteen per centum of the amount charged, to be assessed by the auditor of state. Any such taxes and penalties remaining unpaid shall be certified by the treasurer of state to the attorney general for collection; and the same may be collected by civil action in the name of the state in any court of competent jurisdiction.

SECTION 16. Applications for regular permits authorized by this act may be filed with the department of liquor control at any time after this act becomes effective. No permit shall be issued by the department under authority of this act until fifteen days after the application therefor is filed.

SECTION 17. No permit, other than a class H permit, shall be issued to a firm or partnership unless all of the members of said firm or partnership are citizens of the United States

and a majority thereof have resided in this state for one year prior to application therefor; nor shall a permit, other than a class H permit, be issued to an individual unless he is a citizen of the United States who has resided in this state for at least one year prior to application therefor; nor shall any permit other than a class E or class H permit be issued to any corporation organized under the laws of any country, territory, or state other than Ohio until it shall first have furnished the department with evidence that it has complied with the laws of this state relating to the transaction of business in this state.

No person theretofore convicted of conspiracy, manufacturing, distributing, transporting, importing, possessing or selling intoxicating liquor in violation of the state or Federal prohibition laws, or of any felony, shall receive or be permitted to retain any permit under this act: nor shall any such person have an interest, directly or indirectly, in any permit authorized to be issued under this act. No holder of a permit shall sell, assign, transfer, or pledge the permit granted, without the written consent of the department of liquor control.

No more than one of each type of class C or class D prmit shall be issued to any one person, firm or corporation in any county having a population of less than fifty thousand, and no more than one of each type of class C or class D permit to any one person, firm or corporation for any additional fifty thousand or major fraction thereof in any county having a greater population than fifty thousand.

No class D-3 permit shall be issued to any club unless such club was engaged in the activity specified in this act as a qualification for such class of permit, on the first day of January, 1932; or unless such club shall, at the time such permit is issued, have been continuously engaged in such activity for two years.

Not more than one class D-3, class D-4 or class D-5 permit shall be issued for each two thousand population, or part thereof, in any county, city or village. No class D-3, class D-4 or class D-5 permit shall be issued in any municipal corporation, or in any township exclusive of

any municipal corporation or part thereof therein, in which at the November, 1933, election a majority of the electors voting thereon voted against the repeal of section 9 of article XV of the Ohio constitution, unless the sale of spirituous liquor by the glass shall be authorized by a majority vote of the electors voting on the question in such municipal corporation or township or part thereof, hereinafter in this section designated as the liquor control district at an election held pursuant to this section or by a majority vote of the electors of the liquor control district voting on question (d) at a special local option election held in such district pursuant to section 33 of this act.

Upon the petition of fifteen per cent of the number of voters voting for governor at the last election in any such liquor control district, filed with the board of elections of the county in which such political subdivision or part thereof is located sixty days before a general election, such board of elections shall cause ballots to be prepared and hold an election at such general election upon the question of allowing spirituous liquor to be sold by the glass in such liquor control district. Such ballots shall be approved in form by the secretary of state. The results of such election shall be certified by the board of elections to the secretary of state, who shall certify the same to the state department of liquor control.

Within thirty days after this act shall take effect, the secretary of state shall prepare and certify to the department of liquor control a complete list of all the municipal corporations and townships and parts thereof in which, at the November, 1933 election, a majority of the electors voted against the repeal of section 9 of article XV of the Ohio constitution.

No holder of a class D-3 permit issued for a boat or vessel shall sell spirituous liquor in any municipal corporation or township or part thereof, in which the election provided for in this section is authorized to be held, unless the sale of such liquor by the drink shall have been authorized therein by vote of the electors as provided in this section or in section 33 of this act.

SECTION 18. No permit, other than a class F permit, shall be issued unless and until the applicant therefor shall have furnished a bond to the state of Ohio, with surety to the satisfaction of the commission, conditioned on the faithful observance of the terms of the particular class of permit and compliance with all laws of the state of Ohio and rules, regulations, and orders of the department of liquor control and the tax commission of Ohio with respect thereto. The penal sums of such bonds for the classes of permits designated shall be fixed by the department of liquor control within the following limitations, to-wit:

1. For all class A permits, not less than two thousand dollars nor more than ten thousand dollars.

2. For all class B permits, not less than five thousand dollars nor more than twenty-five thousand dollars.

3. For all class C, class D, class E, class G and class H permits, not less than one hundred dollars nor more than one thousand dollars.

Such bonds shall be filed with the commission and kept in its office.

The tax commission of Ohio or the treasurer of state shall notify the surety on any bond required under the provisions of any section of the liquor control act of any delinquency on the part of any permit holder in the payment of a tax within ten days after such tax was due and payable. If the surety shall pay such tax within thirty days after the receipt of such notice no penalty or interest thereon shall be charged against the surety. In the event that the surety does not pay such tax within thirty days but makes payment within ninety days from the date of the receipt of such notice no penalty shall be assessed against the surety but the surety shall pay interest at the rate of six per-centum per annum on the unpaid taxes from the date said taxes were due and payable. In the event the surety does not pay within ninety days then the surety shall be liable for interest and penalties.

In the event that liability upon the bond filed by the permit holder with the tax commission shall be discharged

or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the commission any surety on the bond theretofore given shall have become unsatisfactory, or unacceptable, then the commission may require the permit holder to file a new bond with satisfactory sureties in the same amount, failing which the commission shall forthwith certify the fact to the department, which shall forthwith cancel the permit. If such new bond shall be furnished by said permit holder as above provided, the tax commission shall cancel and surrender the bond of said permit holder for which such new bond shall be substituted.

In the event that upon hearing, of which the permit holder shall be given five days' notice in writing, the commission shall decide that the amount of the existing bond together with the permit holder's known assets is insufficient to insure payment to the state of Ohio of the amount of the tax for which said permit holder is or may become liable during any month, then the permit holder shall forthwith, upon the written demand of the tax commission, file an additional bond in the same manner and form with sureties satisfactory to the commission in any amount determined by the commission not in excess of the maximum amount of twenty-five thousand dollars, failing which the tax commission shall forthwith certify the fact to the department, which shall forthwith cancel the permit.

Any surety on any bond furnished by any permit holder as above provided shall be released and discharged from any and all liability to the state of Ohio accruing on such bond after the expiration of sixty days from the date upon which such surety shall have lodged with the secretary of the tax commission written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said sixty-day period. The tax commission shall promptly on receipt of notice of such request notify the permit holder who furnished such bond and, unless such permit holder shall on or before the expiration of such sixty-day period file with the tax commission a new

bond with a surety or sureties satisfactory to the tax commission in the amount and form hereinbefore in this section provided, the commission shall forthwith certify the fact to the department, which shall forthwith cancel the permit. If such new bond shall be furnished by said permit holder as above provided, the tax commission shall cancel and surrender the bond of said permit holder for which such new bond shall be substituted.

The provisions of this section with respect to the cancellation and surrender of bonds, the requirement of additional bonds, and the release and discharge of sureties on bonds shall apply to any bond required by the department of any of its agents or employees; and the department shall, with respect to such bonds, have all the powers and discharge of the duties conferred and imposed upon the commission by the provisions of this section.

The bonds required hereunder shall run concurrently with the license. The liability of the surety under such bonds or any bonds required by this act for any default of the principal shall be limited to the amount of actual damages sustained on account of such defaults and the liability of the surety for all damages sustained on account of all default occurring during the entire effective period of the bond shall not exceed in the agregate the penal sum thereof.

SECTION 19. No holders of class C permits, nor of class D-1, or class D-2, class D-4 or class D-5 permits, nor of class F permits, shall purchase any beer or wine for resale, excepting from holders of class A or class B permits, unless with the special consent of the department.

No holders of class D-3, class D-4 or class D-5 permits nor of class G permits shall purchase spirituous liquor for resale, excepting from the department, unless with the special consent of the department.

SECTION 20. Each class and kind of permit issued under authority of this act shall authorize the person therein named to carry on the business therein specified at the place or in the boat, vessel or classes of dining car equipment therein described, for a period of one year commencing on the day after the date of its issuance, and no longer, sub-

ject to suspension, revocation or cancellation as authorized or required by this act; and no such permit shall be deemed to authorize the person named therein to carry on the business therein specified at any place or in any vehicle, boat, vessel or class of dining car equipment other than that named therein, nor to authorize any person other than the one therein named to carry on such business at the place or in the vehicle, boat, vessel or class of dining car equipment named therein; excepting in either case, pursuant to compliance with the rules, regulations, and orders of the department of liquor control governing the assignment and transfer of permits, and with the consent of the department as herein provided; and excepting further in case of class G permits, the holder thereof may substitute the name of another registered pharmacist for that entered on the permit, subject to rules and regulations of the department.

Nothing in this act shall be so construed as to prohibit the holder of a class A or class B permit from selling or distributing beer or intoxicating liquor to a person at a place outside of this state, nor to prohibit the holder of any such permit or a class H permit from delivering any beer or intoxicating liquor so sold from a point in this state to a point outside of this state.

Section 21. The sale of beer or intoxicating liquor for consumption on the premises, under permits authorizing such sale, shall be subject to the following restrictions, in addition to those lawfully imposed by the rules, regulations, and orders of the department, to-wit:

1. All such sales shall be made only in accordance with a printed price list posted conspicuously in a prominent place on the premises and furnished to the purchaser.

2. No beer or intoxicating liquor so sold shall be served over a bar for consumption thereat.

3. No beer or intoxicating liquor so sold shall be served to a person unless he is seated at a table; excepting that beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest thereof.

4. Neither the seller nor the board of liquor control by its regulations, shall require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor.

5. The seller shall not suffer or permit the purchaser to remove intoxicating liquor so sold from the premises.

SECTION 22. Sales of beer and intoxicating liquor under any and all classes of permits authorized by this act and from state liquor stores shall be subject to the following restrictions, in addition to those lawfully imposed by the rules, regulations, or orders of the department, to-wit:

1. No beer shall be sold to any person unless he shall have attained the age of sixteen years; and no intoxicating liquor shall be sold to or handled by any person unless he shall have attained the age of twenty-one years.

2. No sales shall be made to an intoxicated person.

3. No intoxicating liquor shall be sold to any individual who habitually drinks intoxicating liquor to excess, or to whom the department has, after investigation, determined to prohibit the sale of such intoxicating liquor, because of cause shown by the husband, wife, father, mother, brother, sister, or other person dependent upon, or in charge of such individual, or by the mayor of any municipal corporation, or a township trustee of any township in which the individual resides. The order of the department in such case shall remain in effect until revoked by the department.

4. Excepting under class G permits, no sales of intoxicating liquor shall be made on Sunday or on the day of holding any election.

5. No holder of a permit shall give away any beer or liquor of any kind or description at any time in connection with his business.

SECTION 23. The sale of intoxicating liquor and alcohol under class G permits shall be subject to the following re-

strictions in addition to those lawfully imposed by the rules, regulations, or orders of the department, to-wit:

1. All sales under such permits shall be made by the registered pharmacist in charge of the store or by a registered assistant pharmacist, lawfully employed therein.

2. All sales to hospitals, infirmaries, medical or educational institutions for the uses authorized by such permits shall be made only upon the written, signed, dated, and sworn application of the superintendent of such institution.

3. All sales of alcohol to physicians, dentists and veterinary surgeons shall be made only on the written, signed, dated, and sworn application of such physician, dentist or veterinary surgeon, as the case may be, personally presented by him.

4. All sales of wine for sacramental purposes shall be made only upon the written, signed, dated and sworn application of the clergyman or official purchasing the same. Such application must have endorsed thereon the approval of a general administrative officer, if there be such, of the religious group to which the purchasing clergyman or official belongs. The name, address and official position of such administrative officer, if there be such, shall be certified to the department in such manner as the board may by regulation prescribe.

5. All sales of alcohol for mechanical, chemical or scientific purposes shall be made only upon the written application of the purchaser known by the registered pharmacist or assistant pharmacist to be a person engaged or employed in such mechanical, chemical or scientific pursuits, which application shall be dated, signed, and sworn to by the purchaser thereof.

All applications required by this section shall state clearly and specifically the kind and quantity of intoxicating liquor or alcohol required and the use to which it is to be put by the person purchasing the same, and that he will not use any of the intoxicating liquor or alcohol procured thereon for a beverage or for any other use than that stated in the application.

All prescriptions and applications required by this section shall be cancelled as soon as filled by the person filling the same, by having the word "cancelled" plainly written or stamped thereon and signed and dated by the person who filled the same, and shall be kept open to public inspection. It shall be unlawful to furnish intoxicating liquor or alcohol more than once on any such prescription or application.

Each holder of such a permit shall register in an alphabetically arranged book, kept exclusively for that purpose, all prescriptions of physicians and dentists, in the following order: the name of the physician or dentist; the name of the person prescribed for; the quantity and kind of intoxicating liquors or alcohol; and the use for which prescribed. The person making the sale shall endorse upon the prescription the date upon which it was filled and his own name. Each such holder shall likewise keep a record of applications, showing the date of each, by whom made, the quantity and kind of intoxicating liquor or alcohol supplied and when, where and for what purpose and by whom the same was to be used. Each applicant shall certify to the same by signing his name thereto in such record book. Such book shall be open at all times during business hours to the inspection of the department.

For the purposes of this section, any registered pharmacist or assistant pharmacist shall have authority to administer the oath herein required.

Section 24. It shall be unlawful for any manufacturer or wholesale distributor to aid or assist the holder of any permit for sale at retail by gift or loan of any money or property of any description or other valuable thing, or by giving of premiums or rebates; and it shall be unlawful for the holder of any such permit to accept the same.

No manufacturer or wholesale distributor shall have any financial interest, directly or indirectly, by stock ownership or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance or promotion of the business of any retail dealer; nor shall any manufacturer or wholesale distributor, nor any stockholder thereof acquire, after the date when this act shall take effect, by ownership in fee, leasehold, mortgage or otherwise,

directly or indirectly, in the premises whereon the business of any other person engaged in the business of trafficking in beer or intoxicating liquor is conducted; and all contracts, covenants, conditions and limitations whereby any person engaged or intending or proposing to engage in the sale of beer or intoxicating liquors promises to confine his sales of a particular kind or quality of beer or intoxicating liquor to one or more product or products, or the product or products of a specified manufacturer or wholesale distributor, or to give preference to such product or products, shall to the extent of such promise be absolutely void and of no effect; excepting that the making of such promise in any such form shall be cause for the revocation or suspension of any permit issued to any party thereto.

SECTION 25. The department of liquor control may revoke any permit issued pursuant to this act for violation of any of the applicable restrictions of this act or of any lawful rule or regulation of the board of liquor control or other sufficient cause, and must revoke any such permit for any of the following causes:

1. In case of conviction of the holder or his agent or employee for violating any of the penal provisions of this act or for a felony.

2. For making any false material statement in an application for a permit.

3. For assigning, transferring or pledging a permit contrary to the rules and regulations of the board of liquor control adopted pursuant to this act.

4. For selling or promising to sell beer or intoxicating liquor to a wholesale or retail dealer who is not the holder of a proper permit at the time of the sale or promise.

5. For failure or default of the holder of a permit to pay an excise tax or any part thereof together with any penalties imposed by or under the provisions of the law relating thereto and for violation of any rule or regulation of the tax commission of Ohio in pursuance thereof.

The department shall cancel any permit issued pursuant to this act:

1. When required to do so by the provisions of section 37 of this act.

2. Excepting as otherwise provided in the rules and regulations of the board of liquor control relative to the transfer of permits, in the event of the death or bankruptcy of the holder thereof, the making of an assignment for the benefit of the creditors of the holder thereof, or the appointment of a receiver of the property of such holder.

Any person or his employee or agent who has been determined by a court having jurisdiction, to have violated section 12940 of the General Code of Ohio, or any part thereof, shall forthwith forfeit any permit granted to him. In addition to the board, such court shall have the power to order such forfeiture. Any place granted such permit by the department, shall be deemed a place of public accommodation, within the meaning of said section 12940. Application for another permit shall not be considered by the department under one year from date of said forfeiture.

SECTION 26. The department may act in the revocation or cancellation of any permit on its own initiative or on complaint of any person, after a hearing at which the holder shall be given an opportunity to be heard in such manner and upon such notice as may be prescribed by the rules and regulations of the board of liquor control. The department may suspend any permit pending such hearing and the appeal provided for in this act, but the period of such suspension shall not exceed thirty days.

SECTION 27. Any person deeming himself aggrieved thereby may appeal to the board of liquor control from the action of the department refusing to issue a permit or revoking a permit.

Within three days after a permit shall have been revoked, cancelled or suspended, the department shall give notice to the holder thereof by mail, addressed to him at the premises named in such permit. The holder shall thereupon surrender the permit by mailing it to the commission by

registered mail or insured parcel post. A certified copy of any notice of revocation, cancellation or suspension given by the department shall be forthwith mailed to the chief of police, marshal or other chief police officer of the city or village in which the premises for which the revoked permit was issued are situated, or upon the sheriff of the county or constable of the township, in case the permit was issued for premises situated outside of any municipal corporation, together with a statement of the number of the permit, the name and place of residence of the holder, the location of the premises for which the permit was issued and the date when such permit was suspended, cancelled or revoked, and, in case of suspension, the period thereof, to the extent such facts are not disclosed by the certified copy of the notice of revocation, cancellation or suspension. In case such permit be not forthwith surrendered the department shall issue a written demand for the surrender thereof and deliver the same to the sheriff of the county in which the premises for which the same are issued are located, or to any special agent of the department, and such sheriff or agent shall immediately demand and secure possession thereof and return the same to the department.

If a permit is suspended and not revoked, or if the action of the department, revoking a permit, is reversed by the board of liquor control, the permit in question shall be forthwith returned by the department to the holder thereof; and the department shall at the same time give notice as herein required to the police officer to whom such prior notice has been given, or his successor in office, that such permit has been restored to the holder.

SECTION 28. The revocation or cancellation of any permit shall entail the loss of the privilege conferred thereby and the seizure by the department of any beer, intoxicating liquor or alcohol which it may find on the premises covered by the permit or in the possession of the holder thereof, shall not be a bar to the prosecution of the holder for any offense under this act or the penal laws of this state committed while such permit was in force; nor shall conviction of any such offense prevent the department from seizing

beer, intoxicating liquors or alcohol so found as herein provided.

SECTION 29. All fees collected by the department shall be paid to the treasurer of state as custodian of the undivided liquor permit fund hereby created, at the times prescribed in section 10 of this act. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation therein.

The undivided liquor permit fund in the custody of the treasurer of state shall be distributed on order of the auditor of state at quarterly calendar periods as follows:

To each municipal corporation the aggregate amount shown by the statements to have been collected from permits therein, for the use of the general revenue fund of such municipality.

To each township the aggregate amount shown by the statements to have been collected from permits in the territory thereof outside of the limits of any municipal corporation located therein, for the use of the general revenue fund of such township.

For the purpose of the distribution herein required, class E and class H permits and class D permits covering boats or vessels, shall be deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel or dining car equipment to which same relates, has his or its principal office or place of business within the state of Ohio.

The distributions herein made shall be subject to diminutions for refunds as prescribed in section 39 of this act.

SECTION 30. No court of this state, other than the common pleas court of Franklin county, shall have jurisdiction of any action against the board, the director, or the department, to restrain the exercise of any power or to compel the performance of any duty under this act. Neither the department, nor the members of the board, nor the director shall be personally liable in any action at law for damages sustained by any person because of any acts performed or

done by the department, the board, or the director, or any employee of the department, in the performance of his duties and the administration of this act.

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SECTION 39. Whenever the department of liquor control shall cancel a permit, as required by any provision of this act, the department shall refund to the holder thereof, or to his executors, administrators, receivers, trustees in bankruptcy or to an assignee for the benefit of his creditors, a proportionate amount representing the unexpired portion of his permit year; excepting that such refund shall in no event be more than ninety per cent of such fee, and if the unexpired portion of the license year be less than thirty days no refund shall be made. Such refund shall be made from the moneys in the custody of the treasurer of state and subject to the order of the department; and at the next distribution of permit fee revenues, the amount so refunded shall be withheld from the moneys, if any, due to the subdivision which received the original permit fee.

SECTION 40. Whenever, upon the revocaton or cancellation of a permit, the department of liquor control seizes beer, intoxicating liquor or alcohol, or any of them, pursuant to any provision of this act, the department shall:

1. Pay to the holder of such permit, or to his executors, administrators, trustees in bankruptcy, receivers, or assignees for the benefit of his creditors, for all such seized beer or intoxicating liquor which shall have been purchased from the department and which remains in packages sealed by the department, the amount originally received by the department from such holder, less ten per centum thereof.

2. Forthwith destroy any beer, intoxicating liquor or alcohol so seized which shall have been illegally acquired by the holder, which such beer, intoxicating liquor or alcohol is hereby declared to be a public nuisance; and no payment shall be made therefor.

3. At such time as may be convenient, sell, either at public or private sale as the department may in its discretion

determine, and to one or more holders of proper permits, any beer, intoxicating liquor or alcohol so seized, which shall have been lawfully acquired by the holder otherwise than from the department. From the proceeds of such sale there shall first be deducted in the order named, the cost and expense of making such sale, the expense of keeping the property sold, the amount of any excise taxes and penalties which may be due from such holder to the state, the amount of all liens, according to their priorities, which shall have been established in any proceeding brought for that purpose, and an amount equal to ten per centum of the gross proceeds of such sale; and the balance, if any, shall be paid by the department to the holder, or to such executors, administrators, trustees in bankruptcy, receivers, or assignees for the benefit of his creditors.

In case of any seizure of beer, intoxicating liquor or alcohol under execution of any judgment rendered against the holder of a permit or in case of the foreclosure of any lien on any beer, intoxicating liquor or alcohol belonging to any such holder, or in the case of the insolvency or bankruptcy of such holder, or in any other case in which judicial process is employed to subject any beer, intoxicating liquor or alcohol belonging to or in the possession of the holder of a permit issued under authority of this act to any claims whatsoever, the officer seizing such beer, intoxicating liquor or alcohol or taking possession thereof pursuant to such process, shall deliver to the department all beer, intoxicating liquor or alcohol found in the possession of the judgment debtor, bankrupt or person for whom he shall have been appointed as a receiver as the case may be; and thereupon the commission shall proceed in the manner required and authorized by this section as if such beer, intoxicating liquor or alcohol had been seized in the first instance by the department, and pay the balance of the proceeds of the sale thereof to the officer holding the process, to be disposed of by him according to law and the orders of the court issuing the same.

Section 41. For the purpose of providing revenues for the support of the state, a tax is hereby levied on the sale

or distribution in Ohio of wine, excepting for known sacramental purposes, at the rate of ten per centum of the retail selling price thereof. Only one sale of the same article shall be used in computing the amount of tax due hereunder. For the purposes of this section and of sections 42 to 49, both inclusive, of this act, the term "retail selling price" means the ordinary, customary, or usual price paid by the consumer and the words "sale" and "sell" include exchange, barter, gift, offer for sale and distribution.

SECTION 42. The tax hereby imposed shall be paid by the purchase of stamps. Such stamps shall be designed or procured and sold, purchased, affixed to each bottle or other container, and cancelled in the manner and at the time provided in sections 6212-49c to 6212-49g, both inclusive, of the General Code, relating to the tax imposed upon the sale of bottled beverages; excepting that the commission may by regulation provide that the denominations of such stamps shall represent the retail selling price of the wine, the sale of which is taxed thereby, instead of the amount of the tax thereon. The commission, the treasurer of state, the auditor of state, and county treasurers shall have and exercise with respect to the administration of the tax imposed by this act, all the powers and duties vested in or imposed upon said commission and other officers named herein by the provisions of said sections of the General Code: and manufacturers and bottlers of, and wholesale and retail dealers in wine, and railroad companies, express companies and other public carriers transporting shipments of wine shall be subject to, with respect to the tax hereby imposed, the same duties, and entitled to the same privileges as are provided by any of said named sections of the General Code. The treasurer of state shall pay for redeemed stamps issued pursuant to this act and shall make refunds pursuant to this act from an appropriation to him for the purpose of defraying the expenses of administering this act.

In addition to the refunds authorized by the sections of the General Code mentioned in this section, under the circumstances therein named, the holder of a class G permit

and/or permit B-3 shall be entitled to a refund of the actual amount of tax paid on sales of wine for sacramental purposes, upon condition that he make affidavit that such wine was so sold, and furnishes from the purchaser a written acknowledgment that he has received such wine, and that the price paid therefor does not include the amount of the tax, together with a statement showing the face value of the stamps on the containers of wine so received, and the name and address of the purchaser. Such affidavit and acknowledgment and statement shall be filed with the treasurer of state, who shall make such refund in the manner provided in section 6212-49h of the General Code and authorized by this section.

SECTION 43. For the purpose of providing revenue for the support of the state, a tax is hereby levied on the excess gross profits derived from the manufacture or sale of spirituous liquor under permits authorized by this act, at the rate of twenty-five per centum of such excess gross profits, computed as required by this section and the rules and regulations of the commission adopted pursuant to the authority hereby conferred. For the purpose of this section the term "excess gross profits" means the amount by which, during the period covered by the return required under authority hereof, the gross receipts derived from all sales of spirituous liquor, except sales by a manufacturer for consumption outside of this state, exceed twice the sum of the following, to-wit:

1. In the case of a manufacturer, the cost of all materials and supplies purchased prior to or during the period and used or consumed in the manufacture of the spirituous liquor sold during the period, including all taxes paid or accrued on such spirituous liquor; and in the case of a retailer, the cost of the spirituous liquor purchased prior to or during the period and sold during the period.

2. In the case of any taxpayer, the amount actually expended for labor and other personal services, excluding salaries of executive officers, employed in or in connection with the manufacture or sale of spirituous liquor sold during the period.

Each holder of a permit authorizing the manufacture or sale of spirituous liquor, or his executor, administrator, trustee in bankruptcy, receiver or assignee for the benefit of creditors, shall, on or before the tenth day of each calendar month make return to the commission in such form as the commission may by rules and regulations prescribe, showing the basis on which the tax imposed by this section is due for the preceding calendar month or the part thereof during which the permit was in force, and such further information as the commission may require. An authorized assignee or transferee of a permit assigned or transferred during a calendar month shall make return for the entire calendar month. Upon receiving any return the commission shall determine and assess the amount of the excess gross profits derived under the permit, as herein defined, for the preceding calendar month or part thereof and on or before the fifteenth day of each calendar month shall transmit to the auditor of state a duplicate statement in such form as the auditor of state shall prescribe, showing the name of each permit holder, executor, administrator, trustee in bankruptcy, receiver, or assignee for the benefit of creditors subject to the tax hereby imposed and the amount of the excess gross profits of each for the preceding calendar month, together with such other information as the auditor of state may deem necessary. On receipt of such duplicate statement the auditor of state shall compute the tax due from each permit holder or other person herein named, at the rate prescribed by this section, and on or before the twentieth day of each calendar month shall transmit to the treasurer of state a copy of such statement, showing the amount due from each. On or before the twentieth day of each calendar month each permit holder or other person herein named shall pay to the treasurer of state the tax due in respect of excess gross profits during the preceding calendar month, together with any taxes or penalties, or both, on account of amounts omitted in or for any prior calendar month as certified to the treasurer of state during such preceding calendar month. Such payment shall be accompanied by a copy of the statement filed with the commission. Such determination, computation and

payment shall be tentative and provisional only and without prejudice to the power of the commission, hereby conferred, to audit each return and to certify, in any calendar month subsequent to the one for which return and provisional payment have been made, a final corrected determination of excess gross profits for such month, in the form of an additional amount, or a deduction from the amount for the month in which such final determination is made, as the case may require; and the commission shall have power at any time to make a final determination for any calendar month or part thereof for which no return has been made as herein required. Prior to the certification of any such final determination, the commission shall notify the permit holder or any other person affected thereby as to the amount thereof and in such notice fix a time and place at which such permit holder or other person may be heard as to the correctness of such final determination. A penalty of fifteen per centum of the amount of the tax shall be assessed by the auditor of state for failure to pay the tax at the time required by law; and a penalty of fifteen per centum of the amount of the tax shall be assessed by the commission for failure to file a return as required by law and the rules and regulations of the commission. A penalty of twenty-five per centum of the amount of the tax shall be assessed by the commission for the filing of a false or fraudulent return. Such taxes and penalties may be recovered in the manner provided by section 6212-60 of the General Code.

SECTION 44. Moneys received into the state treasury from the taxes levied, penalties assessed and sums recovered under the provisions of this act shall be credited to the general revenue fund therein.

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SECTION 51. Whenever the commission or any of its deputies or employees authorized by it for such purpose shall discover any wine, subject to tax as provided by this act, and upon which the tax has not been paid as herein required, the commission, or such deputy or employee is hereby authorized and empowered forthwith to seize and

take possession of such wine, which shall thereupon be deemed to be forfeited to the state and the commission may within a reasonable time thereafter by a notice posted upon the premises where such seizure is made, or by publication in some newspaper having circulation in the county wherein such seizure is made, at least five days before the day of sale, sell such forfeited wine, and from the proceeds of such sale shall collect the tax due thereon together with a penalty of fifty per centum thereof and the costs incurred in such proceedings and pay the balance, if any, to the person in whose possession such forfeited wine was found; provided, however, that such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this act. Such sale shall be made in the county where most convenient and economical. All moneys collected under the provisions of this section shall be paid into the state treasury to the credit of the general revenue fund.

SECTION 52. The department of liquor control shall on the first day of each month certify to the tax commission of Ohio a list of the names and addresses of all holders of permits issued by it during the preceding month and then in force, together with a list of eliminations from any prior list. The taxation provisions of this act shall be deemed to be one of the laws which the tax commission of Ohio is required to administer within the meaning of sections 1465-9, 1465-12 to 1465-30, inclusive, 1465-32 and 1465-34 of the General Code.

SECTION 53. In the interpretation of the provisions of the General Code of Ohio, other than this act, the word "liquor" and the phrase "intoxicating liquor" shall be construed to have the meaning assigned to the phrase "intoxicating liquor" by section 1 of this act.

As used in the succeeding sections of this act and in the interpretation of the provisions of the General Code of Ohio relating to intoxicating liquor, other than this act:

"Sale" and "sell" include exchange, barter, gift, offer for sale, distribution and delivery of any kind.

"Vehicle" includes all means of transportation by land, by water, or by air, and everything made use of in any way whatsoever for such transportation.

SECTION 54. Whoever, not being the holder of a class A permit issued by the department of liquor control, in force at the time, and authorizing the manufacture thereof, or an agent or employee of the department of liquor control authorized by law and by said department to manufacture such beer or intoxicating liquor, either directly or indirectly, himself or by his clerk, agent, or employee, manufactures any beer or intoxicating liquor for sale; or

Whoever, not being the holder of a class B, class C, class D, class E, class F, or class G permit issued by the department of liquor control, in force at the time, and authorizing the sale thereof, or an agent or employee of the department of liquor control or the tax commission of Ohio authorized by law and by said department or commission to sell such beer or intoxicating liquor, either directly or indirectly, himself or by his clerk, agent, or employee, sells, keeps or has in possession for sale any beer or intoxicating liquor, or sells any alcohol at retail, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not less than thirty days nor more than six months, or both. Whoever, being the holder of a permit issued by the department of liquor control, either directly or indirectly, himself or by his clerk, agent or employee, sells, keeps or has in his possession for sale any intoxicating liquor not purchased from the department of liquor control or from the holder of a permit issued by the department of liquor control authorizing the sale of such intoxicating liquor unless the same has been purchased with the special consent of the department shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, and be imprisoned not less than thirty days nor more than six months. The department of liquor control shall revoke the permit of any person convicted of this offense.

SECTION 55. Whoever, not being the holder of a class H permit, transports or imports beer, intoxicating liquor or alcohol, or any of them, in this state, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not less than thirty days nor more than six months, or both. This section shall not apply to the transportation and delivery of beer or intoxicating liquor purchased or to be purchased from the holder of a permit issued by the department of liquor control, in force at the time, and authorizing the sale and delivery of the beer or intoxicating liquor so transported, nor of beer, intoxicating liquor or alcohol purchased from the department of liquor control or the tax commission of Ohio.

SECTION 56. Whoever falsely or fraudulently makes, forges, alters or counterfeits any wrapper, label, cork or cap prescribed by the board of liquor control under the provisions of this act, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such wrapper, label, cork or cap, or knowingly and wilfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited wrapper, label, cork or cap, or uses more than once any wrapper, label, cork or cap prescribed by the board of liquor control pursuant to this act, shall be deemed guilty of a felony and on conviction thereof shall be imprisoned in the penitentiary for a term of not less than one year nor more than ten years.

SECTION 57. Whoever has in his possession an opened bottle, flask, or container, containing intoxicating liquor, in a state liquor store or on the premises of the holder of a permit issued by the department of liquor control authorizing the sale of such intoxicating liquor, unless such intoxicating liquor shall have been lawfully purchased for consumption on such premises, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars.

SECTION 58. Whoever consumes any intoxicating liquor in a motor vehicle, shall be deemed guilty of a misdemeanor

and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars, or imprisoned not less than ten days nor more than three months, or both.

SECTION 59. Money arising from fines and forfeited bonds collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution or sale of beer or intoxicating liquor shall be paid one-half into the state treasury to the credit of the general revenue fund therein and one-half into the treasury of the county where the prosecution is held.

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SECTION 61. The judge of a court of record may issue warrants to search a house, building, place, vehicle, watercraft, aircraft or conveyance for beer, alcohol or intoxicating liquor manufactured, possessed, stored, concealed, sold, furnished, given away, or transported in violation of any provision of this act and the containers in which the same may be found, or machinery, tools, implements, equipment, supplies and materials used or kept for use in manufacturing beer or intoxicating liquor in violation of any provision of this act, and to seize any of such property and things found therein, together with the vehicle, watercraft, aircraft, or conveyance in which the same may be found. The issuance of such warrants shall be subject in all respects to the provisions of sections 13430-2 to 13430-7, both inclusive, of the General Code; excepting that any such vehicle, watercraft, aircraft, or other conveyance shall be returned to the owner thereof upon execution by him of a bond with surety to the satisfaction of the officer making the seizure in an equal amount to the value thereof, conditioned upon the return thereof to the custody of such officer on the day of trial to abide by the judgment of the court. Upon conviction of any violation of any provision of the liquor control act, any property or thing found in the possession of the person convicted or his agent or employee shall be disposed of as provided in section 6212-43 of the General Code. If the accused is discharged by the judge or magistrate, such ve-

hicle, watercraft, aircraft, or other conveyance shall be returned to the owner thereof and any bond which may have been given pursuant to the provisions of this section shall be cancelled; if the accused is the holder of a permit issued under authority of the liquor control act, any beer, intoxicating liquor or alcohol so seized shall be delivered to the department of liquor control and disposed of as provided in section 40 of this act and any other property so seized shall be returned to the owner thereof by the officer having the same in possession or custody; if the accused is not the holder of such a permit in force at the time, any beer, intoxicating liquor or alcohol and other property, excepting as herein provided, shall be forthwith destroyed and any such beer, intoxicating liquor or alcohol or other property is hereby declared to be a public nuisance.

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Sec. 6212-43. When * * * *any agent or employee of the department of liquor control deputized for that purpose,* or any *other* officer of the law, shall discover any person in the act of transporting in violation of law, *beer or* intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all *beer or* intoxicating liquors found therein being transported contrary to law. Whenever *beer or* intoxicating liquors transported or possessed illegally shall be seized by an officer named herein, he shall take possession of the vehicle and team, or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the * * * *liquor control act*, in any court having jurisdiction *of offenses* under * * * *said act*, but the said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond with sufficient sureties, in a sum equal to the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide by the judgment of the court. The court upon conviction of the person so arrested shall order the *beer or intoxicating*

liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale * * * *at* public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of *beer or intoxicating* liquor, and shall distribute the balance as is distributed money arising from fines and forfeited bonds under the * * * *liquor control act.*

All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one shall be found claiming the team, vehicle, water or air craft, automobile, or other conveyance, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken, or if there is no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for four weeks and by hand bills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the last publication of the advertisement, the property shall be sold and the proceeds after deducting the expense and costs shall be distributed as hereinbefore provided in case there was a claimant for the said vehicle or conveyance.

Sec. 6212-49a. As used in sections 6212-49a to 6213-49t, both inclusive, of the General Code:

"Beverages" includes beer as defined by section 6212-63 of the General Code *as amended* and also all beverages whatsoever excepting milk and cream and proprietary medicines; *and excepting also all intoxicating liquor.*

"Commission" means the tax commission of Ohio.

"Person" includes firms and corporations.

"Wholesale dealer" includes only those persons who sell bottled beverages to retail dealers or for purposes of resale only.

"Retail dealer" includes every person other than a wholesale dealer or a manufacturer engaged in the business of selling bottled beverages in this state, irrespective of quantity or amount or number of sales thereof.

"Sales" includes exchange, barter, gift, offer for sale and distribution, and excludes transactions in interstate or foreign commerce.

Sec. 6212-50. It shall be the duty of every class A and class B permit holder, and such class C and class D permit holders as may have sold or distributed beer on which the tax levied by the provisions of section * * * 6212-49 *of the General Code* has not been paid, *or their executors, administrators, trustees in bankruptcy, receivers or assignees for the benefit of creditors,* on or before the tenth day of the calendar month, to transmit to the tax commission of Ohio, upon a form prescribed and furnished by the tax commission of Ohio, a return, under oath or affirmation, showing the amount of beer sold or distributed by such permit holder in Ohio on which the tax is due for the preceding calendar month. Such return shall show such further information as the tax commission of Ohio may require. The tax commission of Ohio may adopt and/or modify rules and regulations with reference to the manner of payment of the tax and fees to be paid and the documents required to certificate payment thereof.

No beer manufactured, sold or distributed in Ohio shall be taxed more than once under the provision of section * * * 6212-49 *of the General Code.*

Sec. 6212-53. The taxes * * * imposed by * * * *section* 6212-49 *of the General Code and the permit fees and excess gross profits taxes imposed by the liquor control act* shall be a line upon all of the property of the taxpayer or permit holder. If the surety on any bond required under the provisions of any section of this liquor control act make payment of any sums due under any bond given hereunder, the surety shall be subrogated to any lien right herein provided on any and all property of the taxpayer or permit holder.

Sec. 6212-58. On or before the fifteenth day of each calendar month, the tax commission of Ohio shall transmit to the auditor of state a statement showing:

1. The names of all permit holders *or other persons on their behalf* who have filed a report provided for in section * * * 6212-50 *of the General Code,* during the same calendar month.

2. The amount of tax due under the provisions of section * * * 6212-49 *of the General Code* as shown by the reports of such permit holders *or other persons.*

3. The names of any permit holders *or other persons on their behalf* whom the tax commission determines by investigation to have improperly reported the quantity of beer sold or distributed during any preceding calendar month together with the quantity of such beer found by the tax commission to have been omitted.

4. Such other information as the auditor of state may deem necessary.

Upon receipt of such statement from the tax commission, the auditor of state shall compute the tax due from each permit holder *or other person* at the rate as prescribed by law. On or before the 20th day of each calendar month, the auditor of state shall transmit to the treasurer of state a copy of such statement, showing the amount due from each permit holder *or other person.* On or before the 20th day of each calendar month, each permit holder *or other person in whose name the tax has been assessed* shall pay to the treasurer of state * * * the tax due on the sale or distribution of beer by him during the preceding calendar month, together with any amounts omitted and any tax penalty on the amounts omitted, as certified to him during such calendar month. Such payment shall be accompanied by a copy of the statement filed with the tax commission.

The * * * revenue derived from the tax on the sale and distribution of beer pursuant to the provisions of section * * * 6212-49 *of the General Code* shall be for the use of the general revenue fund of the state. * * *

Sec. 6212-63. For the purposes of * * * *sections* 6212-44 to 6212-49, *both inclusive, of the General Code, sections* 6212-49a to 6212-49t, *both inclusive, of the General Code, sections* 6212-50 *to* 6212-54, *both inclusive, of the General Code, section* 6212-54a *of the General Code, sections* 6212-55 *to* 6212-62, *both inclusive, of the General Code and section* 6212-64 *of the General Code,* the term "beer" as used in * * * *any of said sections* shall include beer, lager beer, ale, stout and porter, ale, and other brewed or fermented beverages containing one half of one per centum or more of alcohol by * * * *weight* but not more than 3.2 per centum of alcohol by weight.

Sec. 6212-64. Any person, firm, or corporation, or his or its employee or agent, who * * * manufactures for sale, distributes or sells * * * any beverage upon which the tax provided for by * * * *section* 6212-49 *of the General Code* has not been paid, shall be deemed guilty of a misdemeanor and upon conviction shall forfeit any permit granted to him, or it, by the commission and shall be fined not less than one hundred ($100.00) dollars nor more than one thousand ($1,000.00) dollars or be imprisoned not less than thirty (30) days nor more than six (6) months, or both.

* * * * * * *

Section 65. There is hereby appropriated from the moneys in the treasury of state to the credit of the general revenue fund, to the department of liquor control the sum of $50,000 for personal service and the sum of $250,000 for supplies and maintenance; to the auditor of state the sum of $10,000 for personal service and the sum of $5,000 for supplies and maintenance; to the treasurer of state the sum of $19,000 for personal service, the sum of $5,000 for supplies and maintenance and the sum of $10,000 for the purpose of making refunds; to the attorney general, the sum of $7,500 for personal service and the sum of $2,500 for traveling expense; to the department of finance, division of tax commission of Ohio, the sum of $30,000 for personal service and the sum of $30,000 for supplies and maintenance; to pay liabilities lawfully incurred in the adminis-

tration of the provisions of this act during the period commencing with the effective date hereof and ending on the 31st day of March, 1935. The appropriations herein made from the general revenue fund to the department of liquor control shall be reimbursed from the moneys in the custody of the treasurer of state for the use of the department, in the manner provided in section 10 of this act at the earliest possible date as determined by the department of liquor control and the department of finance, as therein provided.

SECTION 66. Any and all compensation provided for by the provisions of this act or by designation of the director in such salaries or other compensation as he shall fix, shall be subject to the terms of Senate Bill No. 5, enacted by the 89th General Assembly in special session, September 30th, 1932 and approved by the governor October 3, 1932.

SECTION 67. The sections and parts of sections included in this act are hereby declared to be independent sections and parts of sections; if any such section or part of section shall be held invalid, such holding shall not affect the remainder of this act, nor the context in which such part of section so held invalid may appear, excepting to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. The intention and purpose of this act extends to the control and regulation of the traffic in intoxicating liquor in this state to the full extent permitted by the constitutions of this state and of the United States.

SECTION 68. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reasons for such necessity are that the repeal of article XV, section 9 of the constitution of this state and the adoption of the twenty-first amendment of the constitution of the United States, whereby the eighteenth amendment of the constitution of the United States has been repealed, have made manifest a strongly prevailing sentiment in this state opposed to the policy of prohibition of the traffic in intoxi-

cating liquors and in favor of the policy of regulation as embodied in this act; and that the statutes of this state, relating to the traffic in intoxicating liquors are so far predicated upon said repealed provisions of the constitution of this state and that of the United States, and the acts of the congress of the United States under authority of said repealed provision of the constitution of the United States, that substantial doubt exists as to their scope and effect, by reason of said repeals; and there is in the opinion of the general assembly strong reason to believe that said existing statutes of this state do not have the support of a preponderant public opinion; so that the general assembly is convinced that unless the doubt and confusion which now exists concerning the state of the law of this state relative to the traffic in intoxicating liquors be immediately dispelled and a system of control of such traffic consistent with the strongly prevailing sentiment of the people as evidenced by their action, herein mentioned, be immediately put into effect, conditions seriously affecting the public peace, health and safety will prevail. Therefore this act, excepting as herein specifically provided, shall go into immediate effect.

FRANK CAVE,
*Speaker of the House of Representatives.*
CHARLES SAWYER,
*President of the Senate.*

Passed December 22, 1933.
Approved December 23, 1933.

GEORGE WHITE,
*Governor.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 23rd day of December, A. D. 1933.

I hereby certify that the foregoing is a true copy of the engrossed bill.

GEORGE S. MYERS,
*Secretary of State.*